

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
AT NASHVILLE**

**JOSHUA GARTON,**

**Plaintiff,**

**v.**

**W. RAY CROUCH, et al.,**

**Defendants.**

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**Case No. 3:21-cv-00338  
Judge Aleta A. Trauger**

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**RESPONSE IN OPPOSITION TO PLAINTIFF’S MOTION FOR LEAVE TO FILE AN  
AMENDED COMPLAINT**

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Defendants Joseph Craig and Andrew Vallee submit the following response in opposition to Plaintiff’s motion for leave to file an amended complaint (DE 96).

Plaintiff seeks leave to amend his complaint by adding paragraphs 121-127. (DE 96, PageID# 2076-78). The proposed amendment adds allegations to support Plaintiff’s claim for declaratory and injunctive relief against the City of Dickson, David Rausch, and Ray Crouch. (DE 96-1, PageID# 2108-2112). However, this claim has already been dismissed by this Court’s Order of January 1, 2022 (DE 62, PageID# 1933) for failure to state a claim.

Decisions on motions to amend are within the sound discretion of the court and leave should be freely granted when justice requires. *Foman v. Davis*, 371 U.S. 178, 182 (1962); Fed. R. Civ. P. 15(a)(2). However, justice does not require amendment when its cause is not justifiable “such as undue delay, bad faith or dilatory motive on the part of the movant . . . [or] *futility of amendment*. . . .” *Riverview Health Institute, LLC v. Med. Mut. of Ohio*, 601 F.3d 505, 520 (6th Cir. 2010)(emphasis added). “A proposed amendment is futile if the amendment could not withstand a Rule 12(b)(6) motion to dismiss.” *Id.*

Here, Plaintiff's proposed amendment seeks to add factual allegations to support his claim for declaratory and injunctive relief, which has already been dismissed for failure to state a claim. (DE 62, PageID# 1933). Therefore, Defendants contend Plaintiff's proposed amendment is futile and the Court should deny Plaintiff's motion to amend the complaint.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies on June 20, 2023, a true and accurate copy of the foregoing Response in Opposition to Plaintiff's Motion for Leave to File an Amended Complaint was filed electronically and sent by way of the Court's electronic filing system to:

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